

1 PAUL J. RIEHLE (SBN 115199)  
2 paul.riehle@faegredrinker.com  
3 **FAEGRE DRINKER BIDDLE & REATH**  
4 **LLP**  
5 Four Embarcadero Center, 27th Floor  
6 San Francisco, CA 94111  
7 Telephone: (415) 591-7500  
8 Facsimile: (415) 591-7510

1 CHRISTINE A. VARNEY (*pro hac vice*)  
2 cvarney@cravath.com  
3 KATHERINE B. FORREST (*pro hac vice*)  
4 kforrest@cravath.com  
5 GARY A. BORNSTEIN (*pro hac vice*)  
6 gbornstein@cravath.com  
7 YONATAN EVEN (*pro hac vice*)  
8 yeven@cravath.com  
9 J. WESLEY EARNHARDT (*pro hac vice*)  
10 wearhardt@cravath.com  
11 LAUREN A. MOSKOWITZ (*pro hac vice*)  
12 lmoskowitz@cravath.com  
13 VANESSA A. LAVELY (*pro hac vice*)  
14 vlively@cravath.com  
15 M. BRENT BYARS (*pro hac vice*)  
16 mbyars@cravath.com  
17 **CRAVATH, SWAINE & MOORE LLP**  
18 825 Eighth Avenue  
19 New York, New York 10019  
20 Telephone: (212) 474-1000  
21 Facsimile: (212) 474-3700

22 *Attorneys for Epic Games, Inc.*

13  
14 **UNITED STATES DISTRICT COURT**  
15  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17  
18 **OAKLAND DIVISION**

19 EPIC GAMES, INC.,

20 *Plaintiff,*

21 Case No. 4:20-cv-05640-YGR-TSH

22 v.  
23 APPLE INC.,

24 *Defendant.*

25 **DECLARATION OF JUSTIN C. CLARKE**  
26 **IN SUPPORT OF EPIC GAMES, INC.'S**  
27 **MOTION TO APPOINT SPECIAL MASTER**

28 APPLE INC.,

v.  
EPIC GAMES, INC.,

*Counterclaimant,*  
*Counter-defendant.*

Hon. Yvonne Gonzalez Rogers

1 I, Justin C. Clarke, declare as follows:

2 1. I am a partner at the law firm of Cravath, Swaine & Moore LLP, and I am  
3 one of the attorneys representing Epic Games, Inc. (“Epic”) in the above-captioned action (the  
4 “Action”). I am admitted to appear before this Court *pro hac vice* in *Epic Games, Inc. v. Apple*  
5 *Inc.*, Case No. 4:20-cv-05640-YGR. The contents of this declaration are based on my personal  
6 knowledge. If called to be a witness, I could and would testify competently thereto.

7 2. I submit this declaration in support of Epic’s Motion to Appoint Special  
8 Master in this Action (the “Motion”).

9 3. On March 23, 2021, the Court ordered Epic and Defendant and  
10 Counterclaimant Apple Inc. (“Apple”) (together with Epic, the “Parties”) “to hire a retired  
11 judicial officer to resolve their objections, to the extent that there are any” to the Parties’  
12 respective deposition designations in this Action. (Dkt. 381.)

13 4. The Parties have met and conferred with respect to the selection of a  
14 retired judicial officer and have agreed, subject to Court approval, to the retention of the  
15 Honorable Elizabeth Laporte (Ret.).

16 5. Judge Laporte is a retired Magistrate Judge for the Northern District of  
17 California who currently serves as a neutral at JAMS in San Francisco, CA.

18 6. The Parties have agreed to retain Judge Laporte and are in the process of  
19 meeting and conferring with Judge Laporte to resolve their respective objections concerning  
20 deposition designations.

21 7. Epic has met and conferred with Apple concerning the Motion. Apple has  
22 stated that it will provide its position on the Motion to the Court in a separate filing.

23 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing  
24 is true and correct and that I executed this declaration on April 12, 2021 in Brooklyn, New York.

25 /s/ Justin C. Clarke

26 Justin C. Clarke